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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,353	01/14/2004	Helmut Gegalski	1-23211	3328
46582	7590	06/15/2005	EXAMINER	
MACMILLAN, SOBANSKI & TODD, LLC ONE MARITIME PLAZA - FOURTH FLOOR 720 WATER STREET TOLEDO, OH 43604			HONG, JOHN C	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,353

Applicant(s)

GEGALSKI ET AL.

Examiner

John C. Hong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/12/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show “74” as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “74” has been used to designate both bock and resilient material (page 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one

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figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by JP403132464.

'464 discloses a mounting device for a securing a control unit to a vehicle comprising: an outer supporting structure formed from a non-resilient material (3) that is adapted to be attached to a vehicle; and a layer of resilient material (3) disposed within and attached to the outer structure, the resilient material being adapted to be placed adjacent to the control unit (2) whereby the resilient material absorbs noise and vibrations; further including an inner supporting structure formed from a non-resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting structure, the inner structure being adapted to be attached to the control unit; the resilient material is a polymer that is attached to the outer and inner supporting structures; the polymer is rubber and the outer and inner supporting structures are formed from steel; the layer of

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resilient material is adhesively bonded to the outer and inner supporting structures; the inner and outer supporting structures are generally U-shaped and form a bracket that is adapted to secure the control unit to a vehicle; the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit and further wherein the inner and outer supporting structures are generally U-shaped and form a bracket that is adapted to secure the electro-hydraulic control unit to a vehicle; the resilient material is a polymer that is attached to the outer supporting structure; the polymer is rubber and the outer supporting structure is formed from steel; the layer of resilient material is adhesively bonded to the outer supporting structure (Figs. 1-3, Abstract).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP403132464 in view of Brumeister (U.S. Patent 4258642).

'464 teach the limitation except the resilient material is adapted to be received within a corresponding bore formed in the electro-hydraulic control unit.

Brumeister teaches the resilient material (80) is adapted to be received within a corresponding bore(72) formed in the control unit (Fig. 4).

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It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the mounting device of '464 by adding the feature of Brumeister so as to dampen the vibration.

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ 2d 1647 (1987)*.

7. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP403132464 in view of Ikeda et al. (U.S. Patent 5628499).

'464 teach the limitation except a layer (7) of resilient material disposed within and attached to the outer structure (3).

Ikeda et al. teach a layer of resilient material disposed within and attached to the outer structure. (Fig. 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the layer of resilient material of '464 by adding the feature of Ikeda et al. so as to dampen the vibration.

8. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP403132464.

'464 teach the limitation except the steps of : providing a sheet of laminated material having at least one layer of resilient material bonded to at least one layer; punching at least one aperture through the sheet of laminated material; stamping at least one flat blank from the sheet of laminated material with the stamped blank including at least one of the apertures formed ; and forming the blank into a bracket.

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Official Notice is taken that providing a sheet of laminated material having at least one layer l; punching at least one aperture through the sheet of laminated material; stamping at least one flat blank from the sheet of laminated material with the stamped blank including at least one of the apertures formed ; and forming the blank into a bracket is well known in the art and it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ these steps on the method of '464 so as to produce vibration dampening mounting device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 571-272-4529. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'JCH', written in a cursive style.

John C. Hong
Primary Examiner
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jh
June 13, 2005